

B1 (Official Form 1) (12/11)

United States Bankruptcy Court Eastern District of New York				Voluntary Petition	
Name of Debtor (if individual, enter Last, First, Middle): <b>23rd Avenue LLC</b>			Name of Joint Debtor (Spouse) (Last, First, Middle):		
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names):			All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):		
Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) /Complete EIN (if more than one, state all): <b>10-9401523</b>			Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) /Complete EIN (if more than one, state all):		
Street Address of Debtor (No. & Street, City, State & Zip Code): <b>20-85 130th Street College Point, NY</b>			Street Address of Joint Debtor (No. & Street, City, State & Zip Code):		
ZIPCODE <b>11356</b>			ZIPCODE		
County of Residence or of the Principal Place of Business: <b>Queens</b>			County of Residence or of the Principal Place of Business:		
Mailing Address of Debtor (if different from street address)			Mailing Address of Joint Debtor (if different from street address):		
ZIPCODE			ZIPCODE		
Location of Principal Assets of Business Debtor (if different from street address above): <b>130-17 23rd Avenue, College Point, NY</b>					
ZIPCODE <b>11356</b>					
<b>Type of Debtor</b> (Form of Organization) (Check one box.)  <input type="checkbox"/> Individual (includes Joint Debtors) <i>See Exhibit D on page 2 of this form.</i> <input checked="" type="checkbox"/> Corporation (includes LLC and LLP) <input type="checkbox"/> Partnership <input type="checkbox"/> Other (If debtor is not one of the above entities, check this box and state type of entity below.) <hr/> <b>Chapter 15 Debtor</b> Country of debtor's center of main interests:  Each country in which a foreign proceeding by, regarding, or against debtor is pending:		<b>Nature of Business</b> (Check one box.)  <input type="checkbox"/> Health Care Business <input type="checkbox"/> Single Asset Real Estate as defined in 11 U.S.C. § 101(51B) <input type="checkbox"/> Railroad <input type="checkbox"/> Stockbroker <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Clearing Bank <input checked="" type="checkbox"/> Other <hr/> <b>Tax-Exempt Entity</b> (Check box, if applicable.) <input type="checkbox"/> Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code).		<b>Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box.)</b>  <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 9 <input checked="" type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Chapter 13 <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Main Proceeding <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding <hr/> <b>Nature of Debts</b> (Check one box.) <input type="checkbox"/> Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or house- hold purpose." <input checked="" type="checkbox"/> Debts are primarily business debts.	
<b>Filing Fee (Check one box)</b>  <input checked="" type="checkbox"/> Full Filing Fee attached  <input type="checkbox"/> Filing Fee to be paid in installments (Applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A.  <input type="checkbox"/> Filing Fee waiver requested (Applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.			<b>Chapter 11 Debtors</b>  <b>Check one box:</b> <input checked="" type="checkbox"/> Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). <input type="checkbox"/> Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D).  <b>Check if:</b> <input checked="" type="checkbox"/> Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,343,300 (amount subject to adjustment on 4/01/13 and every three years thereafter). <hr/> <b>Check all applicable boxes:</b> <input type="checkbox"/> A plan is being filed with this petition <input type="checkbox"/> Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).		
<b>Statistical/Administrative Information</b> <input checked="" type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.					THIS SPACE IS FOR COURT USE ONLY
<b>Estimated Number of Creditors</b> <input checked="" type="checkbox"/> 1-49 <input type="checkbox"/> 50-99 <input type="checkbox"/> 100-199 <input type="checkbox"/> 200-999 <input type="checkbox"/> 1,000-5,000 <input type="checkbox"/> 5,001-10,000 <input type="checkbox"/> 10,001-25,000 <input type="checkbox"/> 25,001-50,000 <input type="checkbox"/> 50,001-100,000 <input type="checkbox"/> Over 100,000					
<b>Estimated Assets</b> <input checked="" type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1 million to \$10 million <input type="checkbox"/> \$10 million to \$50 million <input type="checkbox"/> \$50,000,001 to \$100 million <input type="checkbox"/> \$100 million to \$500 million <input type="checkbox"/> \$500,000,001 to \$1 billion <input type="checkbox"/> More than \$1 billion					
<b>Estimated Liabilities</b> <input checked="" type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1 million to \$10 million <input type="checkbox"/> \$10 million to \$50 million <input type="checkbox"/> \$50,000,001 to \$100 million <input type="checkbox"/> \$100 million to \$500 million <input type="checkbox"/> \$500,000,001 to \$1 billion <input type="checkbox"/> More than \$1 billion					

**Voluntary Petition**

(This page must be completed and filed in every case)

Name of Debtor(s):  
**23rd Avenue LLC****All Prior Bankruptcy Case Filed Within Last 8 Years** (If more than two, attach additional sheet)Location  
Where Filed: **None**

Case Number:

Date Filed:

Location  
Where Filed:

Case Number:

Date Filed:

**Pending Bankruptcy Case Filed by any Spouse, Partner or Affiliate of this Debtor** (If more than one, attach additional sheet)Name of Debtor:  
**None**

Case Number:

Date Filed:

District:

Relationship:

Judge:

**Exhibit A**

(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11.)

☐ Exhibit A is attached and made a part of this petition.**Exhibit B**

(To be completed if debtor is an individual whose debts are primarily consumer debts.)

I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I delivered to the debtor the notice required by 11 U.S.C. § 342(b).

**X**

Signature of Attorney for Debtor(s)

Date

**Exhibit C**

Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety?

☐ Yes, and Exhibit C is attached and made a part of this petition.  
☒ No**Exhibit D**

(To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D.)

☐ Exhibit D completed and signed by the debtor is attached and made a part of this petition.

If this is a joint petition:

☐ Exhibit D also completed and signed by the joint debtor is attached and made a part of this petition.**Information Regarding the Debtor - Venue**

(Check any applicable box.)

- ☒ Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.
- ☐ There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.
- ☐ Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding [in a federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District.

**Certification by a Debtor Who Resides as a Tenant of Residential Property**

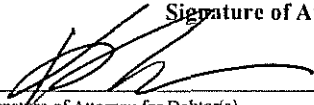
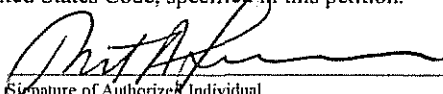
(Check all applicable boxes.)

☐ Landlord has a judgment against the debtor for possession of debtor's residence. (If box checked, complete the following.)

(Name of landlord that obtained judgment)

(Address of landlord)

- ☐ Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and
- ☐ Debtor has included in this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition.
- ☐ Debtor certifies that he/she has served the Landlord with this certification. (11 U.S.C. § 362(l)).

<b>Voluntary Petition</b> <i>(This page must be completed and filed in every case)</i>		Name of Debtor(s): <b>23rd Avenue LLC</b>	
<b>Signatures</b>			
<p style="text-align: center;"><b>Signature(s) of Debtor(s) (Individual/Joint)</b></p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct.          [If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under Chapter 7] I am aware that I may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.          [If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. § 342(b).          I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.</p> <p>X _____          Signature of Debtor</p> <p>X _____          Signature of Joint Debtor</p> <p>_____          Telephone Number (If not represented by attorney)</p> <p>_____          Date</p>		<p style="text-align: center;"><b>Signature of a Foreign Representative</b></p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition.          (Check only one box.)</p> <p><input type="checkbox"/> I request relief in accordance with chapter 15 of title 11, United States Code. Certified copies of the documents required by 11 U.S.C. § 1515 are attached.</p> <p><input type="checkbox"/> Pursuant to 11 U.S.C. § 1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.</p> <p>X _____          Signature of Foreign Representative</p> <p>_____          Printed Name of Foreign Representative</p> <p>_____          Date</p>	
<p style="text-align: center;"><b>Signature of Attorney*</b></p> <p>X           Signature of Attorney for Debtor(s)</p> <p><b>Kevin J. Nash</b>  <b>Goldberg, Weprin, Finkel,</b>  <b>Goldstein, L.L.P.</b>  <b>1501 Broadway, 22nd Floor</b>  <b>New York, NY 10036</b>  <b>(212) 221-5700</b>  <b>KNash@GWFGlaw.com</b></p> <p>_____          Date</p> <p><small>*In a case in which § 707(b)(4)(D) applies, this signature also constitutes a certification that the attorney has no knowledge after an inquiry that the information in the schedules is incorrect.</small></p>		<p style="text-align: center;"><b>Signature of Non-Attorney Petition Preparer</b></p> <p>I declare under penalty of perjury that: 1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; 2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h) and 342(b); and 3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19 is attached.</p> <p>_____          Printed Name and title, if any, of Bankruptcy Petition Preparer</p> <p>_____          Social Security Number (If the bankruptcy petition preparer is not an individual, state the Social Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.) (Required by 11 U.S.C. § 110.)</p> <p>_____          Address</p> <p>_____          _____</p>	
<p style="text-align: center;"><b>Signature of Debtor (Corporation/Partnership)</b></p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.</p> <p>The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.</p> <p>X           Signature of Authorized Individual</p> <p><b>Robert A. Fiduccia</b>          Printed Name of Authorized Individual</p> <p><b>Managing Member</b>          Title of Authorized Individual</p> <p>_____          Date</p>		<p>X _____          Signature</p> <p>_____          Date</p> <p>Signature of Bankruptcy Petition Preparer or officer, principal, responsible person, or partner whose social security number is provided above.</p> <p>Names and Social-Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual:</p> <p>_____          _____</p> <p>If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.</p> <p><i>A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 U.S.C. § 110; 18 U.S.C. § 156.</i></p>	

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X

In re: Chapter 11

23<sup>RD</sup> AVENUE, LLC, Case No.

Debtor.

-----X

**DECLARATION PURSUANT TO LOCAL BANKRUPTCY RULES**

ROBERT FIDUCCIA, declares the following under penalties of perjury pursuant to 28 U.S.C. § 1746:

1. I am the sole manager and member of 23<sup>rd</sup> Avenue, LLC (the “Debtor”) which previously held a lease for the premises located at 130-17 23<sup>rd</sup> Avenue, College Point, New York. The premises are currently occupied by an affiliated operating company known as Bass Plumbing & Heating Corp. (“Bass”), which is contemplating its own Chapter 11 case.

2. In the interim, the landlord has obtained a warrant of eviction. Therefore, this Chapter 11 petition is being filed to prevent a premature forfeiture of the premises.

3. Following termination of the lease, a stipulation was executed extending occupancy rights through at least May, 2013 based upon payments of \$10,000 per month. In June, a check in the sum of \$10,000 was tendered to the landlord and accepted, only for the Debtor to receive an eviction notice.

4. During the Chapter 11 case, the Debtor intends to continue payments to the landlord for use and occupancy of the premises at a rate of \$10,000 a month until a final determination is made as to an orderly relocation.

5. The Debtor’s only creditor is Henry Braler, the landlord.

6. The Debtor has no secured creditors.

7. The Debtor's sole equity holder is Robert A. Fiduccia.

8. This Chapter 11 petition is filed as an emergency bankruptcy. A formal set of Schedules and Statements will be filed within fifteen (15) days of the date hereof.

Dated: New York, NY  
June 26, 2013

  
\_\_\_\_\_  
ROBERT A. FIDUCCIA

X:\GWFG\New Data\Veri\Word\Bass Plumbing & Heating\Local Rule Affidavit 06-26-13 Doc

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
In re:

Chapter 11

23<sup>RD</sup> AVENUE, LLC,

Case No.

Debtor.  
-----X

**LIMITED LIABILITY COMPANY RESOLUTION**

At a special meeting of the members of 23<sup>rd</sup> Avenue, LLC, (the "Company") held on June 26, 2013, and upon due consent and after motion duly made, seconded and unanimously carried, it is hereby:

**RESOLVED**, that the Company is authorized and empowered to cause the filing of a petition under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of New York, and that the bankruptcy filing is in the best interests of the Company, its creditors and equity holders; and it is further

**RESOLVED**, that the Company is authorized to retain the firm of GOLDBERG WEPRIN FINKEL GOLDSTEIN LLP, as counsel for purposes of filing and prosecuting the Chapter 11 case on its behalf.

Dated: New York, NY  
June 26, 2013

23<sup>RD</sup> AVENUE, LLC

By: 

Name: Robert A. Fiduccia  
Title: Managing Member

United States Bankruptcy Court  
Eastern District of New York

Case No.

Chapter 11

Debtor(s)

23rd Avenue LLC

LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS

Following is the list of the debtor's creditors holding the 20 largest unsecured claims. The list is prepared in accordance with Fed. R. Bankr. P. 1007(d) for filing in this chapter 11 [or chapter 9] case. The list does not include (1) persons who come within the definition of "insider" set forth in 11 U.S.C. § 101, or (2) secured creditors unless the value of the collateral is such that the unsecured deficiency places the creditor among the holders of the 20 largest unsecured claims. If a minor child is one of the creditors holding the 20 largest unsecured claims, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. Sec. 11 U.S.C. § 112 and Fed. R. Bankr. P. 1007(m).

(1) Name of creditor and complete mailing address including zip code	(2) Name, telephone number and complete mailing address, including zip code, of employee, agent or department of creditor familiar with claim who may be contacted	(3) Nature of claim (trade debt, bank loan, government contract, etc.)	(4) Indicate if claim is contingent, unliquidated, disputed or subject to setoff	(5) Amount of claim (if secured also state value of security)
Henry Bialer 1009 Glen Cove Avenue Suite L2 Glen Head, NY 11545		Rent	Unliquidated	0.00

DECLARATION UNDER PENALTY OF PERJURY ON BEHALF OF A CORPORATION OR PARTNERSHIP

I, [the president or other officer or an authorized agent of the corporation] or a member or an authorized agent of the partnership named as the debtor in this case, declare under penalty of perjury that I have read the foregoing list and that it is true and correct to the best of my information and belief.

Signature:

Date:

Robert A. Fiduccia, Managing Member

(Print Name and Title)

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X

In re:

Chapter 11

23<sup>RD</sup> AVENUE, LLC,

Case No.

Debtor.

-----X

**SCHEDULE OF PENDING LAWSUITS**

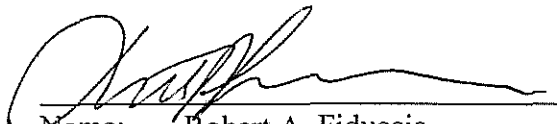
Henry Bialer v. Bass Plumbing & Heating Corp. and 130-17 23<sup>rd</sup> Avenue a/k/a  
20-85 130<sup>th</sup> Street College Point, NY 11356  
Civil Court of the City of New York, Queens County  
Index No. 76416/2012  
Attorneys for Plaintiff: Kelley Talbot, Esq.

Phone: (516) 515-1545

Dated: New York, New York  
June 26, 2013

23<sup>RD</sup> AVENUE, LLC

By:

  
Name: Robert A. Fiduccia  
Title: Managing Member



United States Bankruptcy Court  
Eastern District of New York

IN RE:

Case No. \_\_\_\_\_

23rd Avenue LLC

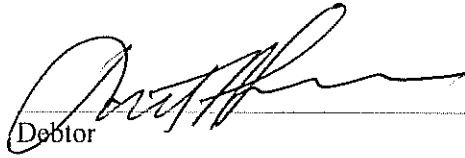
Chapter 11

Debtor(s)

VERIFICATION OF CREDITOR MATRIX

The above named debtor(s) or attorney for the debtor(s) hereby verify that the attached matrix (list of creditors) is true and correct to the best of their knowledge.

Date: 6-26-13

  
Debtor

Joint Debtor

Attorney for Debtor

HENRY BIALER  
1009 GELN COVE AVENUE  
SUITE L2  
GLEN HEAD NY 11545

HENRY BIALER  
1009 GLEN COVE AVENUE  
SUITE L2  
GLEN HEAD NY 11545

HENRY BIALER  
55 NORTHERN BOULEVARD SUITE 204  
GREAT NECK NY 11021

INTERNAL REVENUE SERVICE  
10 METRO CENTER  
625 FULTON STREET  
BROOKLYN NY 11201

MAXINE CHEVLOWE CITY MARSHAL  
95-20 63RD ROAD SUITE A  
REGO PARK NY 11374

NY CITY DEPARTMENT OF FINANCE  
BANKRUPTCY UNIT  
340 ADAMS STREET 10TH FLOOR  
BROOKLYN NY 11201

NYS DEPT OF TAXATION  
BANKRUPTCY/SPECIAL PROCEDURE  
POBOX 5300  
ALBANY NY 12205-0300